



**US Army Corps
of Engineers®**
Little Rock District

Millwood Lake

Shoreline Management Plan

Revised August 2012

**RED RIVER WATERSHED
ARKANSAS
LITTLE RIVER
MILLWOOD DAM AND LAKE**

**UPDATED MASTER PLAN FOR
DEVELOPMENT AND MANAGEMENT
OF MILLWOOD LAKE**

**APPENDIX F
SHORELINE MANAGEMENT PLAN**

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**RED RIVER WATERSHED
ARKANSAS
LITTLE RIVER
DESIGN MEMORANDUM NO. 5B**

**UPDATED MASTER PLAN FOR
DEVELOPMENT AND MANAGEMENT
MILLWOOD LAKE
APPENDIX F
SHORELINE MANAGEMENT PLAN**

SECTION I

INTRODUCTION

- 1-01. Purpose. This Shoreline Management Plan establishes policy and furnishes guidelines for the protection and preservation of the desirable environmental characteristics of the Millwood Lake shoreline. The plan is formulated to achieve a balance between permitted private uses and resource protection for the general public use. The plan also considers means of restoration of the shoreline where degradation has occurred because of various reasons of private exclusive use.
- 1-02. Authorized Project Purposes. Millwood Lake was authorized for construction by the Flood Control Act approved 3 July 1958 (Public Law 85-500, 85th Congress, S. 3901) as a modification of Millwood Reservoir authorized by the Flood Control Act approved 24 July 1946 (Public Law 526, 79th Congress, Chapter 596, 2d Session, H.R. 6597). Project purposes of Millwood Lake other than flood control are fish and wildlife, recreation and water supply.
- 1-03. Applicability. This plan is applicable to all land and water areas on Millwood Lake. The plan has been developed exclusively for Millwood Lake.
- 1-04. Authority. This plan was prepared in accordance with the requirements of 36 CFR 327.30 dated 1 July 2001 (Exhibit I), ER 1130-2-406 dated 31 October 1990, and SWLR 1130-2-48 dated 6 January 2003 (Exhibit II).
- 1-05. References.
- a. 36 CFR 327.30, dated 1 July 2001, Shoreline Management at Water Resources Development Projects Administered by the Chief of Engineers.
 - b. ER 1130-2-406, dated 31 October 1990, Shoreline Management at Civil Works Projects.
 - c. SWLR 1130-2-48, dated 6 January 2003, Shoreline Management at Civil Works Projects.
- 1-06. Private Recreation Facilities. Private recreation facilities as discussed in this plan include boat moorage facilities that include private and community boat docks. Private floating facilities used for boat mooring will not exceed the minimum size required to moor the owners' boat or boats plus a minimum area for storage of oars, life preservers, and other items essential to the operation of the watercraft.

- 1-07. Other Private Shoreline Uses. Individuals may apply for permits to make minor alterations to vegetation around habitable structures for land-based private uses including vegetation modification for fire protection, footpath construction and maintenance, planting, and erosion control.
- 1-08. Natural Resources Mission Statement.
The US Army Corps of Engineers (USACE) is the steward of the lands and waters at USACE water resources projects. The Corps' Natural Resources Management Mission is to manage and conserve those natural resources, consistent with ecosystem management principles, while providing quality public outdoor recreation experiences to serve the needs of present and future generations. In all aspects of natural and cultural resources management, the USACE promotes awareness of environmental values and adheres to sound environmental stewardship, protection, compliance, and restoration practices. The USACE manages for long-term public access to, and the use of, the natural resources in cooperation with other federal, state, and local agencies as well as the private sector. The USACE integrates the management of diverse natural resource components such as fish, wildlife, forests, grasslands, soil, air, and water with the provisions of public recreation opportunities. The USACE conserves natural resources and provides public recreation opportunities that contribute to the quality of American life.
- 1-09. Operational Management Plan. Upon approval, this updated plan will become a part of the updated Operational Management Plan for Millwood Lake.
- 1-10. Future Legislation, Regulations and Policies. This plan will incorporate any future legislation, regulations, policies, etc., pertinent to US Army Corps of Engineers Civil Works projects and Millwood Lake. Changes of this type will be considered an administrative change and will be incorporated without additional review.

SECTION II

OBJECTIVES OF THE PLAN

- 2-01. General. Experience has shown that management is necessary to prevent large sections and possibly all of the shoreline from becoming congested with private floating facilities and land based private uses thereby lost for public use and enjoyment. Management of all public lands and waters at Millwood Lake is necessary to provide opportunities for optimum recreational experiences for the maximum number of people and to assure the compatibility among the general public, the environment and protection of project resources.
- a. The objectives of this plan are to manage and protect the shoreline, to establish and maintain acceptable fish and wildlife habitat, aesthetic quality and natural environmental conditions, and to promote the safe and healthful use of the lake and shoreline for recreational purposes by all citizens.
 - b. Boat owners will be encouraged to moor their boats at commercial marinas, utilize dry storage facilities off project lands, or trailer their boats to public launching ramps located within the Corps parks or to one of the launching complexes developed by the county, state, or city governments.
 - c. Activities associated with any vegetation modification on public lands require prior approval and a shoreline use permit from the Operations Project Manager (OPM) at Millwood Lake.
- 2-02. Commercial Concessions. Floating facilities used in connection with commercial concessions located in the parks are not affected by the shoreline allocations presented in this plan. These commercial operations are effectively controlled under existing Real Estate regulations. The services and storage facilities provided by these commercial operations will reduce the need for numerous individually owned docks along the shoreline. There are presently three commercial concessions on the lake.
- 2-03. Limited Motel/Resort/Campground Leases. Floating facilities and vegetation modification activities in connection with limited motel/resort/campground leases are subject to the shoreline allocations presented in this plan. Shoreline use permits are not issued for these facilities. These docks are part of a commercial operation and are authorized by a Real Estate Instrument. There are currently no limited motel/resort/campground leases on Millwood Lake.
- 2-04. Private Exclusive Use. Definition: "Any action, within the context of this rule (36 CFR 327.30), which gives special privilege to a family household or group of family households on land or water at a Corps project, that precludes use of those lands or waters by the general public, is considered private exclusive shoreline use." Ownership of private land does not convey any exclusive rights to the use of the adjoining public lands. It is the objective of this plan to control private exclusive use of public property to the degree necessary to gain maximum benefit for the general public. The issuance of a private shoreline use permit does not convey any real estate, personal property rights, or exclusive use rights to the permit holder. The public's right of access and their use of the permit area must be maintained and preserved.

- 2-05. Background. The initial Lakeshore Management Plan for Millwood Lake was approved in June 1976. The next update occurred six years later, and the plan was approved on 9 July 1982. Since 1982 there have been two supplements to the plan (7 Jun 1991 and 1 Mar 1996). An administrative review was approved on 7 January 2007.
- 2-06. Plan Conversion. Revision of 36 CFR 327.30 in 1990 required the Little Rock District to convert all project Lakeshore Management Plans, incorporating the new regulations, into Shoreline Management Plans. The Little Rock District, prior to converting the shoreline management plans, implemented a District-wide shoreline management policy, SWLOM 1130-2-33, on 15 September 1992. This policy was developed following a series of public meetings with consideration of the written comments. The provisions of the finalized policy, SWLOM 1130-2-33, and the shoreline allocations contained in the July 1982 Updated Lakeshore Management Plan for Millwood Lake are a part of this Shoreline Management Plan.
- 2-07. Five-Year Review.
- a. Shoreline management plans will be reviewed periodically, but no less often than every five years, by the district commander to determine the need for update. The plan may be supplemented more frequently should regulations, project operations, project conditions, or management objectives change significantly.
 - b. No changes will be made to the shoreline allocations except throughout the formal update process which includes public participation and approval by the Division Commander. All requests for changes to the shoreline allocations will be received during the formal plan update. If a sufficient number of requests have been made, consideration will be given to initiating the formal update process.
 - c. Boat dock rezoning requests for additional Limited Development Areas (LDA) will not be considered or accepted until all of the available LDA on Millwood Lake is utilized to the maximum extent as permitted by 327.30. These requests will only be considered or accepted during the formal update. Since Millwood Lake had previously accepted boat dock rezoning request prior to implementation of a revised district regulation SWLR 1130-2-48, Shoreline Management at Civil Works Projects, dated 6 January 2003, those requests on file before that date will be allowed to be evaluated at the next review.

SECTION III

DESCRIPTION OF THE SHORELINE

3-01. General.

- a. The topography around Millwood Lake is characterized by a wide, flat valley which offers few significant variations in the configuration of the terrain. Exceptions are the bluffs which arise sharply out of the water along the east shore near the dam. The contrast that these bluffs offer to the otherwise flat, monotonous terrain makes them quite scenic. Hardwoods such as ash, hickory, water oak, willow, sycamore, and various other species of oak are predominant. Some of the area can be classified as tall grass, but virtually no virgin vegetation remains in the area. Surface soils are mostly sandy loam and silty clay.
- b. Standing timber was not removed prior to impoundment of the lake in 1966. The lake is generally shallow, so boaters need to be alert to potential underwater hazards, including submerged stumps, floating objects and other obstructions. Logs and floating debris are a major hazard after each rise in lake elevations. A system of 27 miles of boating safety lanes and directional markers has been provided to assist boaters in emergency situations, inclement weather, and quicker access to the shoreline.

3-02. Shoreline Elevations. At the top of conservation pool, elevation 259.2, the shoreline of the lake has a total length of 87 miles.

3-03. Present Land Use. The total fee-owned acreage above conservation pool is 6,554 acres, of which 780 acres are used for operational; 1,694 acres for public use as primary recreation areas; and 1,615 acres for natural resources management.

3-04. Private Development. Development around the lake has been minor due to limited access to the lake. At the present time there are four real estate subdivisions adjacent to public lands. The construction of structures in these subdivisions can range from simple A-frame cabins to \$100,000 private homes.

3-05. Existing Access. In addition to pedestrian access, 10 launching ramps with access roads and 8 severed roads around the lake are used by residents and sportsmen for boat launching.

3-06. Prior Commitment. Private boat docks and limited private uses of the shoreline have been permitted on Millwood Lake since impoundment began. Currently, there are no private docks moored on Millwood Lake. Under a grandfathered status, boat docks will be managed in accordance with SWLR 1130-2-48, dated 6 January 2003, Appendix H.

3-07. Historical/Archeological/Cultural. The US Army Corps of Engineers is charged by law (P.L. 96-515 Section 110) and regulation ER 1130-2-540 with the responsibility and efficient management of all Historic Properties on lands under its control. ER 1130-2-540 defines the term "Historic Properties" as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

3-08. Indian Lands. There are no Indian lands within the boundaries of Millwood Lake.

3-09. Proprietary Jurisdiction. No other Federal agencies have jurisdiction over administration of the shoreline covered by this plan. All Federal, state, and local laws and regulations remain in full force on Millwood Lake.

SECTION IV

SHORELINE ALLOCATIONS

- 4-01. General. Increased development of adjoining private land increases the demand for private floating facilities, vegetation modification and other land uses. It is readily apparent that a plan for systematic development of the shoreline is essential. Listed below are some of the reasons the shoreline is allocated into different categories.
- a. To maintain a balance between permitted land uses and a natural unaltered shoreline for the general public.
 - b. To preserve fish and wildlife habitat.
 - c. To allow controlled access to the lake.
 - d. To prevent the shoreline from becoming congested with boat docks.
 - e. To allow limited activities while preventing the appearance of converting public property to private use which would hinder the free use of the land by the public.
- 4-02. Allocations. A comprehensive study of the entire shoreline, involving public participation, resulted in development of a shoreline management plan for Millwood Lake which establishes the following shoreline allocations:
- a. Limited Development Areas. Approximately 2 miles of shoreline is allocated for limited development. These areas are shown in red on the shoreline allocation maps. Private floating facilities, tramways, pathways, and vegetation modification is permitted only in this shoreline allocation. Location on the lake, fluctuation of water level, and other criteria will be the determining factors in approval or disapproval of a request in these limited development areas. Designation as a limited development area does not guarantee the approval of dock placement, nor that adequate water depth is available at all times. Existing flotation will be replaced when it is no longer serviceable.
 - b. Public Recreation Areas. Approximately 20 miles of the shoreline is allocated for parks and buffer areas. These areas are shown in gray and their adjacent buffer areas are shown in green on the shoreline allocation maps. Private floating facilities, resort docking facilities, modification of the land form, or vegetation modification activities are not permitted within or adjacent to developed or future park areas. Commercial boat docks and concessions are permitted in public recreation area allocations.
 - c. Protected Shoreline Areas. Approximately 61 miles of the shoreline is allocated for protected areas. These areas were designated to protect aesthetic, environmental, and fish and wildlife values. Private floating facilities and tramways are not permitted in protected shoreline areas. This shoreline allocation is sub-divided into categories that allow differing activities. These areas are explained below.
 - d. Prohibited Access Areas. These areas are shown in blue on the shoreline allocation maps. Shoreline use permits will not be issued in Prohibited Access Areas. These areas typically

include hazardous zones near dams, hydroelectric power stations, or water intake structures. Public access can be restricted for health, safety, or security reasons.

- 4-03. Shoreline Allocation Maps. A master map of the shoreline can be viewed at the US Army Corps of Engineers Millwood Project Office located near Ashdown, Arkansas. This “official” map gives specific limits of all allocations and shows the sub-categories within the protected shoreline areas, i.e. scenic, shallow, natural, etc. All limits of shoreline zoning on Millwood Lake are identified and established so as to utilize US Army Corps of Engineers boundary survey monuments as permanent reference points.

SUMMARY OF SHORELINE ALLOCATIONS

| Area | Miles | Percent |
|---------------------------|--------------|----------------|
| Limited Development Areas | 1.9 | 2.2 |
| Public Recreation Areas | 20.5 | 23.6 |
| Protected Areas | 60.8 | 69.8 |
| Prohibited Access | 3.8 | 4.4 |
| TOTAL SHORELINE | 87.0 | 100 |

SECTION V

WATER QUALITY

- 5-01. General. Water quality management is a complex and challenging task due largely to the extensive and varied human activity both in and around the lake. The broad goal of this management responsibility is to promote water quality adequate for safe and healthy public use as well as conservation of fish, wildlife and other beneficial aquatic life.
- 5-02. Water Intake Structures. Currently, there is one water intake structure on Millwood Lake. It is operated by the Southwest Arkansas Water District and provides a potable water supply to Ashdown, and Texarkana Arkansas.
- 5-03. Importance. Millwood Lake continues to provide industrial water supply, aquatic habitat and recreational opportunities for the general public. Safeguarding the water quality of the lake is of utmost importance. The cooperation of all family households, federal, state, and local agencies is necessary in this effort.
- 5-04. Marine Sanitation Devices.
- a. All permanently installed boat toilets must have a U.S. Coast Guard certified Marine Sanitation Devices (MSDs). The use for any type MSD other than a U.S. Coast guard approved "no discharge" type is prohibited.
 - b. The discharge of any type of effluent in the waters of Little Rock District lakes is prohibited.
 - c. Only approved marine pumpout locations may be used.

SECTION VI

PRIVATE FLOATING FACILITIES AND CONDITIONS

- 6-01. Private Floating Facilities. Private floating facilities as discussed in this plan include boat moorage facilities, ski jumps, mooring buoys and other private floating facilities. Owners of permitted facilities may take necessary precautions to protect their property from theft, vandalism or trespass, but may in no way preclude the public right of pedestrian or vessel access to the water surface or public land adjacent to the facility. The following guidance is provided to assure the most effective use of the limited amount of shoreline set aside for the mooring of private floating facilities and other private shoreline uses.
- a. All United States citizens have an equal opportunity to moor a dock in a limited development area provided the area has not reached the maximum density of development. The density of development for private floating facilities and tramways will not exceed 50 percent of the shoreline allocated for limited development when the lake level is at the top of the conservation pool. Density will be determined by measuring linear feet of shoreline in the zone and comparing it to the width of the facilities in the water plus associated moorage arrangements (anchorage) which restrict the full unobstructed use of that portion of the shoreline. The Operations Project Manager will assess conditions and consider designating the zone for community docks only when the number of docks in a given zone reaches 50 percent of the estimated capacity of that zone (at conservation pool elevation) or when development and/or growth patterns indicate high demand potential for mooring facilities.
 - b. All owners of a floating facility must have legal access to government land for that facility. The applicant must have legal access to the shoreline either by public road, ownership of adjoining property or legal right of access across adjoining property. In the event that the individual(s) do not own the land adjacent to the facility, then a legal recorded lease or easement or other legal binding document for the access must be provided that allows all current and any future owners of the dock the right of ingress and egress, for at least the duration in which the facility is present. Access across public land will be limited to pedestrian traffic only. Legal access to the shoreline is considered to be within 200 feet of the location of the facility. If flowage easement is involved, the owners of the facility must own the flowage easement land or have legal access for all co-owners.
 - c. The applicant for a boat dock must own a boat before a shoreline use permit can be issued on Millwood Lake. Current valid state boat registration will be required with the permit application to support boat ownership and the need for mooring space. This requirement is necessary to preclude commercial activity on the boat dock.
 - d. All boat dock owners who are not permanent residents of the area must designate a local party who will be responsible for surveillance over their dock on a 24-hour basis.
 - e. A separate family household may have a maximum of two slips in any dock and may not own an interest in more than one boat dock facility. A family household is defined as family households living at the same address. A family household may have only one of the two following items:
 - (1) A permit for a private floating facility.
 - (2) Ownership of slips in a community dock.

- f. Docks may not extend out from the shore more than one-third of the cove width at seasonal conservation pool level.
- g. Personal watercraft (PWC's) or jet skis are classified as vessels under State law, and will be considered a vessel that can be moored in a boat dock. PWC may be moored between the dock structure and the shoreline without counting against the slip total for the permittee. PWC lifts and ride-on moorage devices shall be attached to the leeward (adjacent to the shoreline) side of the dock.
- h. All boats shall be moored within an approved stall/slip to prevent them from being permanently tied-on to the sides of the private and community boat docks. The installation of accommodations and facilities conducive to human habitation is prohibited.
- i. Houseboats/vessels with marine sanitation devices (MSD) must be moored at commercial marinas. (MSD's have been required for vessels with installed toilets since 1980).
- j. Where it is applicable, electrical certification is also required. A registered electrical engineer, certified master electrician or licensed electrical contractor must certify the electric service conforms to the National Electric Code. Additional guidance is contained in SWLR 1130-2-48, Certificate of Electrical Inspection, Appendix D and Appendix F.
- k. The storage (over 24 hours) of equipment, improvements, or other personal property on docks is prohibited. This includes, but is not limited to sinks, refrigerators, patio furniture and chairs, or other similar items.

6-02. Existing Docks under Permit. Existing docks can be sold and remain at their presently approved location, or they may be relocated to any of the approved limited development areas on the lake, upon approval by the Operations Project Manager. Requests to expand the size of existing docks will be subject to prior approval of the Operations Project Manager. Each request to relocate an existing dock to a new area will be reviewed on a case-by-case basis considering the current shoreline allocation, physical characteristics of the area, and available commercial facilities nearby.

6-03. Facilities Existing Under Special Condition(Grandfathered).

- a. Private floating facilities moored in areas where allocations made by this plan that do not allow docks, will be permitted to remain in their present locations providing the structures are maintained to the following guidelines (Section 1134 (d) of P.L. 99-662):
- b. On and after 31 December 1989, no houseboat, boathouse, floating cabin, sleeping facilities at marinas, or lawfully installed dock or appurtenant structures shall be required to be removed from any Federal water resources reservoir or lake project administered by the Secretary on which it was located on the date of enactment of this act, if:
 - (1) such property is maintained in usable and safe condition,
 - (2) such property does not occasion a threat to life or property, and
 - (3) the holder of the lease, permit or license is in substantial compliance with the existing lease or license, except where necessary for immediate use for public

purposes or higher public use or for a navigation or flood control project.

- c. Additional guidance on the management of grandfathered docks can be referenced in SWLR 1130-2-48, Appendix H.
 - d. Vegetation Modification Instances where permits have been issued in areas not authorized for vegetation modifications will be grandfathered. These permits can also be transferred to new owners. New requests in areas adjacent to the existing permitted areas will not be approved. If the subject area is not maintained under permit for an extended period of time (usually one year), no permit can be issued in the future.
- 6-04. Permits, Where Required. Revocable shoreline use permits will be granted for private floating facilities and for vegetative modification (meandering footpath and fire protection only), where such activities conform to the Shoreline Management Plan and/or to land use allocations of the project Master Plan.
- 6-05. Permits, Authority to Issue. Operations Project Managers are authorized to issue shoreline use permits. ENG Form 4264-R, Application for Shoreline Use Permit, with permit conditions attached will be used to issue the permit. Construction may proceed upon receipt of written approval of the plans by the Operations Project Manager.
- 6-06. Permit, Administration Charge. A charge will be made for shoreline use permits to help defray expenses associated with issuance and administration of the permits. The administration charge for each permit and annual inspection fees for private floating facilities will be collected initially at the time of permit issuance rather than on a piece meal annual basis. Charges currently in effect are subject to changes in future years. There will be no inspection fee for vegetative modification permits. Multiple uses can be included on the same permit at no additional cost.
- 6-07. Permit Term. Shoreline use permits are issued for a period of time not to exceed 5-years but are subject to revocation by the District Engineer whenever he determines that the public interest requires such revocation or the permittee fails to comply with the conditions of the permit. Permits for duck blinds will be issued for a lesser period of time to assure their timely removal.
- 6-08. Posting of Permit Number. Two printed display permit tags 6" x 8" will be furnished each permittee for posting on boat docks. Tags will be posted on the permitted facility and/or on the land areas covered by the permit so that it can be visually checked with ease in accordance with instructions provided by the resource manager. Grand-fathered facilities are identified with either a green permit tag, or an "X" preceding the permit number.
- 6-09. Design of Private Floating Facilities.
- a. General.
 - (1) All Private floating facilities will be designed and constructed in accordance with plans and specifications listed in SWLR 1130-2-48, Minimum Construction and Maintenance Requirements for Private Floating Facilities, Appendix F. The plans and specifications will be approved by the Operations Project Manager. The private

floating facility must be installed or constructed within one-year from the date of approval or the request is considered voided.

- (2) The use of private floating facilities will be limited to the mooring of boats owned by and registered to the permittee (or member in the case of community docks). Private floating facilities will not exceed the minimum size required to moor the owner's boat(s) (not to exceed three feet beyond vessel length) plus a small storage locker for items essential to watercraft operation, i.e., pfd's, water ski's, inner tubes, etc.
- (3) The Operations Project Manager will approve the size, configuration, and anchoring plan for docks. The maximum size of private floating facilities will be 20 slips for safety reasons and to assure maneuverability of the dock during periods of pool fluctuation.
- (4) Docks must be constructed with open sides.
- (5) Docks will be spaced a minimum of 100 feet apart in ideal shoreline conditions. The placement of the dock should not be made that would produce a electrical cross-over situation; meaning that an applicant's facilities (including electric service and anchor cables) should not go beyond existing neighboring facilities. Cross-over situations cause community discord and therefore, should be avoided. Only under the most unusual situations may cross-overs be approved by the Operations Project Manager.
- (6) Electrical service to and on private docks will require certification by a licensed electrical contractor or certified electrician as listed in SWLR 1130-2-48, Certificate of Electrical Inspection, Appendix D.
- (7) Upper decks are prohibited on private floating facilities. Single pier docks cannot have roofs.
- (8) Walkways should be a minimum length necessary to obtain adequate water depth, but will not exceed 50 feet.
- (9) Existing docks with extensions or sunbathing decks will be grandfathered and reissued until the dock requires major reconstruction or is moved to a different location.
- (10) The Operations Project Manager will have the final determination whether docks are moored perpendicular or parallel to the shoreline.
- (11) Flotation for private/community boat docks on Millwood Lake must conform to specifications listed in 36 CFR 327.30 and SWLR 1130-2-48, Appendix F. All new and replacement private floating facilities are required to encapsulated flotation. Flotation may not be stacked under the dock structure. The substructure of any private dock must be at least 8 inches above the water surface.

- b. Boat Docks. The mooring location for a boat dock must be approved by the Operations Project Manager prior to the construction. Two sets of plans for the dock must be submitted for shoreline use permit applications and they must conform to the specifications shown in SWLR 1130-2-48, Minimum Construction and Maintenance Requirements for Private Floating Facilities, Appendix F. These plans must be stamped and signed by a registered Professional Engineer and must be submitted along with the Shoreline Use Application to Millwood Project Office, 1528 Highway 32E, Ashdown, Arkansas 71822. These plans and those submitted for expansion, structural modification, or installation of electrical facilities on any private floating facility must be and approved in writing by the Operations Project Manager prior to commencement of the work.
- c. Community Boat Docks. The Little Rock District encourages the use of community boat docks as a means of limiting the proliferation of family household docks on the project. The following items will be considered when granting permits for community boat docks:
- (1) The shoreline use permit for a community dock will be issued to the person designated in an association agreement, or similar document, as the authorized representative for the slip owners in the dock. The Operations Project Manager will assess conditions and consider designating a zone for community docks only when the number of docks in a given zone reaches 50 percent of the estimated capacity of that zone (at conservation pool elevation). This will also be done when development and/or growth patterns indicate high demand potential for mooring facilities in a specific area. In an attempt to accommodate as many adjacent lot owners as possible without jeopardizing the shoreline, the Operations Project Manager may designate;
 - (a) that specific portion of the shoreline,
 - (b) that specific individual dock request, or
 - (c) the remaining unoccupied shoreline in that zone for community docks only. Under item 'b' above an applicant may be required to allow others to add stalls to the dock in the future as requests are received and approved by the Operations Project Manager. Compatibility of existing docks, access, parking, and adjacent subdivision configurations will be considered before designating a zone for community docks only.
 - (2) A shoreline use permit for a community dock does not give the members any exclusive rights with regard to the use of public land. The permit does not give the owners the right to remove vegetation, construct breakwaters, or install buoys to restrict the speed of passing boats.
 - (3) Requests to expand a community dock will be subject to prior approval by the other owners with an interest in the dock and the Operations Project Manager.
- d. Mooring Buoys. Placement of mooring buoys is not permitted on Millwood Lake.

- e. Duck Blinds. A permit is not required of those who hunt from the concealment of natural shoreline vegetation or portable blinds placed and removed on a daily basis. Arkansas State Game and Fish Commission regulations state that it is unlawful to build or erect permanent duck blinds on any wildlife management area. Duck blinds may be used for hunting purposes only and be removed from project land and water within 7 days after the close of the waterfowl season.

SECTION VII

OTHER SHORELINE USES BY FAMILY HOUSEHOLDS

7-01. Private Use of the Shoreline. Adjacent landowners must obtain a shoreline use permit from the Operations Project Manager prior to removing vegetation, planting native trees or shrubs, underbrushing, mowing or making any other alterations to public lands. Shoreline use permits will not be granted to individuals for use of lands allocated as public recreation areas, including their buffers, or lands allocated as prohibited access areas. Restoration of the shoreline where degradation has occurred because of private exclusive use will be accomplished through a cooperative effort of the adjacent landowner (at the landowners expense) and the appropriate local, state and federal agencies.

7-02. Vegetation Modification Permits.

- a. General. Vegetation modification is allowed for fire protection purposes, meandering access paths, and planting or landscaping for wildlife, conservation, or the appearance to preserve the aesthetics of the public property and must be authorized by the Operations Project Manager prior to construction. Additional guidance is located in SWLR 1130-2-48, Appendix C.
- b. Leases. In some instances vegetative modification is requested in land areas that are under lease for agricultural and grazing purposes, corridor access, or other similar purposes. In these areas consideration will be given to the effects of the requested vegetative modification on the leased area. If the Operations Project Manager determines that vegetation modification will be a detriment to the lease then the request will be denied (even if the area is allocated for vegetative modification). The existence of a Real Estate outgrant is a higher priority use of the land and can preclude the issuance of a shoreline use permit. Planting/landscaping permits will be decided on a case-by-case basis and can be considered in all shoreline allocations. The decision to issue the planting/landscaping permit on shorelines not allocated for vegetation modification will be to the discretion of the Operations Project Manager. All vegetation modification permits are subject to the following requirements:
 - (1) Only hand operated tools and noncommercial lawn mowers may be used on government land. The use of heavy equipment such as tractors and bulldozers is not permitted.
 - (2) The permittee may only cut dead or diseased trees previously inspected and marked the Operations Project Manager. Permission will only be given for cutting trees that pose a hazard to private property (homes, outbuildings, boat docks), or which are near areas of pedestrian traffic (permitted access paths). Felled tree shall remain on project lands for wildlife habitat unless approved for removal by the Operations Project Manager. Otherwise, dying or dead trees in non-traffic areas will be left standing to provide den and insect feeding trees for birds and other wildlife.
 - (3) No flowering trees or shrubs, such as dogwood, redbud, or serviceberry may be removed, regardless of their size.

- (4) Trees, shrubs or underbrush larger than (3) inches in diameter (measured at base ground level) may not be removed. In certain cases, the Operations Project Manager may restrict the cutting of trees less than 2 inches in diameter if it is determined that it would create an erosion problem or similar adverse impact. Seedlings may be protected for assure future regeneration of canopy trees.
- (5) Burning on government land is not permitted.
- (6) Trimming, cutting, limbing, or topping of trees is prohibited.
- (7) Removal of aquatic vegetation is prohibited, except in the immediate area of a dock, tramway, or mooring buoy.

7-03. Other Permitted Uses. Additional requirements are discussed for the following specific activities.

- a. Fire Protection Permits. Mowing and/or underbrushing is allowed for fire protection purposes. The limits of this mowing/underbrushing will be dependent on the proximity of the privately owned dwelling. A maximum mowed radius of 200 feet from the foundation of the habitable structure is considered adequate for fire protection. In cases where trailers or campers are used a degree of permanency will be determined. Connection to available utilities (water, electric, telephone, sewer, or septic system), decks, and underpinning, are related features that will be considered. Outbuildings or 'vacant lots' will not be considered in the permit process. The actual limits of vegetation modification in each case will be determined by the Operations Project Manager, or his representative, and defined on the Shoreline Use Permit. This 200 feet limit includes the private property between the house and the government boundary and the area of government land inside this 200 feet radius. Additional guidance is located in SWLR 1130-2-48, Appendix C.
- b. Access Paths Permits. Mowing and/or underbrushing for a pedestrian access path can be permitted. Paths must not exceed six feet in width, measured at their widest point(s) and must follow a meandering route to prevent erosion and to minimize the need for removal of vegetation larger than (3) inches in diameter (at base height). Access paths permitted in shoreline areas allocated 'scenic' must meander at least every 25 feet to prevent straight lines-of-sight. This is necessary to help preserve the natural, undisturbed, scenic beauty of the area. This permit does not convey the right to construct any structure (steps, bridges, handrails, etc) in connection with the path. If structures of this nature are proposed, a Real Estate instrument must be requested and acquired. No vehicle traffic is permitted on this access path.
- c. Planting/Landscaping Permits. All requests for planting/landscaping permits must be submitted with a detailed and well described landscape plan. The plan will provide for better management of the area for the enhancement of wildlife, preservation of the aesthetics, and prevention of erosion. All plantings must be of species which are native to the area. Trees of Arkansas, by Dwight Moore and Trees, Shrubs, and Vines of Arkansas by Carl Hunter are excellent texts which describe species native to Arkansas. Park rangers will have the final discretion as to which species will be permissible in the Millwood Lake area. No landscaping materials, such as dedging, raised beds, bird baths, or other personal property will be allowed on public property. No lawn irrigation systems will be installed on public property. The placement of sod will only be in connection with erosion control

practices and will be detailed on the permittee's request. Sod cannot be installed to extend private yards which would create the appearance of private exclusive use. Any practices that change the natural appearance of vegetation on public lands to appear like an extension of private property is not authorized.

- d. Erosion Control Permits. All erosion control measures must be in accordance U.S. Army Corps of Engineers policy and the guidance as contained in SWLR 1130-2-48, Shoreline Erosion Control, Appendix J.

7-04. Request for Waiver of Provisions.

- a. This plan is subject to Federal laws and regulations requiring reasonable accommodations for people with qualifying disabilities. A request to waive any provision for the purpose of accommodating a person with a disability or limiting health condition should be forwarded in writing to:

Operations Project Manager, Millwood Project Office
U.S. Army Corps of Engineers
1528 Highway 32E
Ashdown, Arkansas 71822

- b. The Operations Project Manager will review waiver requests on a case-by-case basis. The request should fully explain the disability or limiting health condition, the family household and local situation, and the specifics of the waiver, accompanied by supporting documentation (letter, copies of handicapped parking placards, doctor's letters, maps, diagrams, etc.)

7-05. Appeals Process. Appeals may be made in accordance with SWLR 1130-2-48, Shoreline Management Plans, Reviews and Revisions, Appendix E.

SECTION VIII

SHORELINE USE PERMIT GUIDELINES

- 8-01. General. Reference Shoreline Management at Civil Works Projects, SWLR 1130-2-48, dated for additional guidance for shoreline use permits.
- 8-02. Permits, Where Required. Revocable shoreline use permits may be granted for private floating facilities, tramways, vegetation modification, community access areas, and other related activities that conform to this plan and the project Master Plan.
- 8-03. Permits, Authority to Issue. The Operations Project Manager is authorized to issue Shoreline Use Permits. ENG Form 4264-R, or computer generated ENG Form 4264-R-E, Application for Shoreline Use Permit. Additional conditions, consistent with this plan, can be added by the Operations Project Manager on a case-by-case basis. No activity, such as mowing, underbrushing, or construction can commence until the applicant has received written approval from the Operations Project Manager.
- 8-04. Administrative and Inspection Charges. A charge will be made for shoreline use permits to help defray expenses associated with administration and inspection of the permits. The administrative charge, and annual inspection fees for private floating facilities and under 18 feet tramways, will be collected at the time of permit issuance. There will be no annual inspection fee for vegetation modification permits. No charge will be made for planting/landscaping, erosion control, or community access area permits. These activities are considered beneficial to government lands. Multiple uses can be included on the same permit, excluding community boat dock permits, at no additional cost. Charges currently in effect are subject to change in future years.
- 8-05. Permit Term. Shoreline Use Permits are issued for a period of time not to exceed five years. In some instances permits will be issued for lesser periods of time. Potential buyers of adjacent property or new owners should not assume that a new permit will automatically be issued. Also, if a new permit is issued, it should not be assumed that it will contain the same limitations as previous permits. It is recommended that potential buyers of private property contact the Millwood Lake Project Office to clarify permit requirements for the adjacent government property.
- 8-06. Posting and Delineating the Permit Area. Two white plastic permit tags, approximately 6" x 8" in size, bearing the permit number and expiration date will be furnished with each permit issued for floating facilities. These tags will be posted on the floating facility on the water side and on the land side so they will be clearly visible. Land based permits will be posted according to instructions provided by the Operations Project Manager. Facilities and activities permitted under special conditions, such as grandfathering, will be identified by using green permit tags or with an "X" preceding the permit number to make them readily identifiable. Condition 25 of the shoreline use permit requires all permittees who perform vegetative modification to delineate the government boundary line in an unobtrusive manner. The entire Millwood Lake boundary line has been surveyed and monumented by the US Army Corps of Engineers. This boundary line delineation will suffice for the requirements of condition 25 of the Shoreline Use Permit.
- 8-07. Collection of Fees. Payment may be made by check (personal, certified, cashiers, etc.) or money order made payable to "FAO, Little Rock District". Payment may also be made in cash. Cash collections will be acknowledged by issuance of a receipt or SF Form 1165. Revenue from

issuance of Shoreline Use Permits will be collected by employees authorized to collect for petty cash sales. The recreation fee cashiers or alternates will not handle fees for Shoreline Use Permits. Collections will be scheduled to the USACE Finance Center, Millington, TN. using ENG Form 3313, Remittance Register. Collections identified as "shoreline use permits" may be listed on the same schedules as reservoir maps, folder maps, etc.

- a. Renewal Procedures. When a shoreline use permit is renewed in the name of the present owner, the applicant will receive the following:
 - (1) Month of expiration sticker (two copies).
 - (2) Year of expiration sticker (two copies).
 - (3) Signed original of the permit, ENG 4624-R, including a statement of the amount paid.
- b. ENG 4624-R. The permit will be prepared in duplicate. The original will be sent to the permittee and the second copy will be kept on file in the Millwood Lake Project Office.

8-08. Refund of Fees. Fees for shoreline use permits are non-refundable.

8-09. Termination of Permits. Authority to revoke shoreline use permits rests with the District Engineer. Permits may be revoked when the action is in the public interest or when the permittee fails to comply with the terms of the permit, the Shoreline Management Plan, or ER 1130-2-406. Conditions must be carefully and completely documented with copies of certified correspondence to the permittee, dated photographs and detailed inspection reports when recommending permit revocation to the District Engineer. The permittee notification process is outlined in permit condition 21. Termination of shoreline use permits (ENG Form 4262-R) for floating facilities shall follow the guidelines established in Title 36.

SECTION IX

PERMITS FOR SHORELINE USE

- 9-01. Shoreline Use Permits. Shoreline Use Permits are issued for private floating facilities, erosion control, access paths, landscaping for wildlife, and vegetation modification. Vegetation modification includes underbrushing and/or mowing for fire protection or access paths. These activities do not involve a disruption to or change in land form. All of these permits are non-transferable. Upon sale or other transfer of the permitted facility or death of the permittee, the permit is voided. Provided there is not a higher priority use for the land a new permit may be issued to the new owner after an application has been made and the appropriate fees have been paid.
- 9-02. Department of the Army Permits. Requests involving dredging, placement of fill, construction of fixed or combination fixed-floating structures and discharge of dredged material will be evaluated under authority of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344). These requests are evaluated by the Regulatory Branch of the Little Rock District Office. Shoreline use permits will not be used under these circumstances.
- 9-03. Real Estate Instruments. All requests for commercial development activities and activities involving grade, cuts, fills, other changes in land form, or appropriate land-based support facilities required for private floating facilities will continue to be evaluated at the Real Estate Branch of the Little Rock District Office.

SECTION X

OTHER LAND USES

- 10-01. Adjoining Lands. No Shoreline Use Permits or Real Estate Instruments will be issued for septic tanks or septic field lines on government property. These facilities constructed on adjoining private lands should meet the requirements of the Arkansas State Department of Health and Environmental Protection Agency. The spilling, pumping, or other discharge of contaminants, pollutants, or other wastes onto public land or water areas is a violation of Title 36, CFR, Part 327.9(c). Instances of improperly functioning septic facilities will be reported and coordinated with the Arkansas Department of Environmental Quality (ADEQ) for investigation and corrective action.
- 10-02. Matters Not Addressed. Requests for activities not specifically addressed in this Shoreline Management Plan will be sent to the Chief, Operations Division, for review, coordination, approval, denial, or referral to higher headquarters.

SECTION XI

CONCLUSIONS AND RECOMMENDATION

- 11-01. Comments and Questions. Millwood Lake project personnel are available to address any questions or comments concerning this Shoreline Management Plan. The Millwood Project Office is located on Arkansas Highway 32, 5 miles east of Ashdown, Arkansas. The telephone number is (870) 898-3343.
- 11-02. Review and Changes. The Operations Project Manager at Millwood Lake will continually monitor the needs of the lake's recreational users and recommend revisions to improve operations and to minimize conflicts between various interests. Minor revisions to the plan will be submitted to the District Engineer for evaluation and approval. In advance of recommending any major revision to this plan, additional public meetings will be held as required by regulations. Changes in shoreline allocations are considered a major change. All requests for changes to the shoreline allocations will be kept on file and reviewed annually to determine the need for a review. If a sufficient number of requests have been made, consideration will be given to initiating the formal update process.
- 11-03. Conclusion. It is the intent of the Millwood Lake Shoreline Management Plan to provide optimum recreational benefits to the public and integrate those recreational needs with physical limitations and natural environmental qualities of the lake and surrounding lands. In developing the plan, past, present and future recreational needs of the area were considered.
- 11-04. Recommendation. Approval of this plan is recommended.



**US Army Corps
of Engineers®**
Little Rock District

Code of Federal Regulations

Title 36, Volume 3

Revised as of July 1, 2001

CITE: 36CFR327.30

TITLE 36--PARKS, FORESTS, AND PUBLIC PROPERTY

CHAPTER III--CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 327 -- RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS -- Table of Contents

Sec. 327.30 Shoreline Management on Civil Works Projects.

- (a) Purpose. The purpose of this regulation is to provide policy and guidance on management of shorelines of Civil Works projects where 36 CFR part 327 is applicable.
- (b) Applicability. This regulation is applicable to all field operating agencies with Civil Works responsibilities except when such application would result in an impingement upon existing Indian rights.
- (c) References.
 - (1) Section 4, 1944 Flood Control Act, as amended (16 U.S.C. 460d).
 - (2) The Rivers and Harbors Act of 1894, as amended and supplemented (33 U.S.C. 1)
 - (3) Section 10, River and Harbor Act of 1899 (33 U.S.C. 403).
 - (4) National Historic Preservation Act of 1966 (Pub. L. 89-665; 80 Stat. 915) as amended (16 U.S.C. 470 et seq.).
 - (5) The National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.).
 - (6) The Clean Water Act (33 U.S.C. 1344, et seq.).
 - (7) The Water Resources Development Act of 1986 (Pub. L. 99-662).
 - (8) Title 36, chapter III, part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers."
 - (9) Executive Order 12088 (13 Oct. 78).
 - (10) 33 CFR parts 320-330, "Regulatory Programs of the Corps of Engineers."
 - (11) ER 1130-2-400, "Management of Natural Resources and Outdoor Recreation at Civil Works Water Resource Projects."
 - (12) EM 385-1-1, "Safety and Health Requirements Manual."
- (d) Policy.
 - (1) It is the policy of the Chief of Engineers to protect and manage shorelines of all Civil Works water resource development projects under Corps jurisdiction in a manner which will promote the safe and healthful use of these shorelines by the public while maintaining environmental safeguards to ensure a quality resource for use by the public. The objectives of all management actions will be to achieve a balance between permitted private uses and resource protection for general public use. Public pedestrian access to and exit from these shorelines shall be preserved. For projects or portions of projects where Federal real estate interest is limited to easement title only, management actions will be appropriate within the limits of the estate acquired.
 - (2) Private shoreline uses may be authorized in designated areas consistent with approved use allocations specified in Shoreline Management Plans. Except to honor written commitments made prior to publication of this regulation, private shoreline uses are not allowed on water resource projects where construction was initiated after December 13, 1974, or on water resource projects

where no private shoreline uses existed as of that date. Any existing permitted facilities on these projects will be grandfathered until the facilities fail to meet the criteria set forth in Sec. 327.30(h).

- (3) A Shoreline Management Plan, as described in Sec. 327.30(e), will be prepared for each Corps project where private shoreline use is allowed. This plan will honor past written commitments. The plan will be reviewed at least once every five years and revised as necessary. Shoreline uses that do not interfere with authorized project purposes, public safety concerns, violate local norms or result in significant environmental effects should be allowed unless the public participation process identifies problems in these areas. If sufficient demand exists, consideration should be given to revising the shoreline allocations (e.g. increases/decreases). Maximum public participation will be encouraged as set forth in Sec. 327.30(e)(6). Except to honor written commitments made prior to the publication of this regulation, shoreline management plans are not required for those projects where construction was initiated after December 13, 1974, or on projects not having private shoreline use as of that date. In that case, a statement of policy will be developed by the district commander to present the shoreline management policy. This policy statement will be subject to the approval of the division commander. For projects where two or more agencies have jurisdiction, the plan will be cooperatively prepared with the Corps as coordinator.
- (4) Where commercial or other public launching and/or moorage facilities are not available within a reasonable distance, group owned mooring facilities may be allowed in Limited Development Areas to limit the proliferation of individual facilities. Generally only one permit will be necessary for a group owned mooring facility with that entity, if incorporated, or with one person from the organization designated as the permittee and responsible for all moorage spaces within the facility. No charge may be made for use of any permitted facility by others nor shall any commercial activity be engaged in thereon.
- (5) The issuance of a private shoreline use permit does not convey any real estate or personal property rights or exclusive use rights to the permit holder. The public's right of access and use of the permit area must be maintained and preserved. Owners of permitted facilities may take necessary precautions to protect their property from theft, vandalism or trespass, but may in no way preclude the public right of pedestrian or vessel access to the water surface or public land adjacent to the facility.
- (6) Shoreline Use Permits will only be issued to individuals or groups with legal right of access to public lands.

(e) Shoreline Management Plan--

- (1) **General.** The policies outlined in Sec. 327.30(d) will be implemented through preparation of Shoreline Management Plans, where private shoreline use is allowed.
- (2) **Preparation.** A Shoreline Management Plan is prepared as part of the Operational Management Plan. A moratorium on accepting applications for new permits may be placed in effect from the time an announcement of creation of a plan or formal revision of a plan is made until the action is completed.
- (3) **Approval.** Approval of Shoreline Management Plans rests with division commanders. After approval, one copy of each project Shoreline Management Plan will be forwarded to HQUSACE (CECW-ON) WASH DC 20314-1000. Copies of the approved plan will also be made available to the public.
- (4) **Scope and Format.** The Shoreline Management Plan will consist of a map showing the shoreline allocated to the uses listed in Sec. 327.30(e)(6), related rules and regulations, a discussion of what areas are open or closed to specific activities and facilities, how to apply for permits and other information pertinent to the Corps management of the shoreline. The plan will be prepared in sufficient detail to ensure that it is clear to the public what uses are and are not allowed on the shoreline of the project and why. A process will be developed and presented in the Shoreline

Management Plan that prescribes a procedure for review of activities requested but not specifically addressed by the Shoreline Management Plan.

- (5) **Shoreline Allocation.** The entire shoreline will be allocated within the classifications below and delineated on a map. Any action, within the context of this rule, which gives a special privilege to an individual or group of individuals on land or water at a Corps project, that precludes use of those lands and waters by the general public, is considered to be private shoreline use. Shoreline allocations cover that land and/or water extending from the edge of the water and waterward with the exception of allocations for the purpose of vegetation modification which extends landward to the project boundary. These allocations should complement, but certainly not contradict, the land classifications in the project master plan. A map of sufficient size and scale to clearly display the shoreline allocations will be conspicuously displayed or readily available for viewing in the project administration office and will serve as the authoritative reference. Reduced or smaller scale maps may be developed for public dissemination but the information contained on these must be identical to that contained on the display map in the project administration office. No changes will be made to these maps except through the formal update process. District commanders may add specific constraints and identify areas having unique characteristics during the plan preparation, review, or updating process in addition to the allocation classifications described below.
- (i) **Limited Development Areas.** Limited Development Areas are those areas in which private facilities and/or activities may be allowed consistent with Sec. 327.30(h) and appendix A. Modification of vegetation by individuals may be allowed only following the issuance of a permit in accordance with appendix A. Potential low and high water conditions and underwater topography should be carefully evaluated before shoreline is allocated as Limited Development Area.
 - (ii) **Public Recreation Areas.** Public Recreation Areas are those areas designated for commercial concessionaire facilities, Federal, state or other similar public use. No private shoreline use facilities and/or activities will be permitted within or near designated or developed public recreation areas. The term "near" depends on the terrain, road system, and other local conditions, so actual distances must be established on a case by case basis in each project Shoreline Management Plan. No modification of land forms or vegetation by private individuals or groups of individuals is permitted in public recreation areas.
 - (iii) **Protected Shoreline Areas.** Protected Shoreline Areas are those areas designated to maintain or restore aesthetic, fish and wildlife, cultural, or other environmental values. Shoreline may also be so designated to prevent development in areas that are subject to excessive siltation, erosion, rapid dewatering, or exposure to high wind, wave, or current action and/or in areas in which development would interfere with navigation. No Shoreline Use Permits for floating or fixed recreation facilities will be allowed in protected areas. Some modification of vegetation by private individuals, such as clearing a narrow meandering path to the water, or limited mowing, may be allowed only following the issuance of a permit if the resource manager determines that the activity will not adversely impact the environment or physical characteristics for which the area was designated as protected. In making this determination the effect on water quality will also be considered.
 - (iv) **Prohibited Access Areas.** Prohibited Access Areas are those in which public access is not allowed or is restricted for health, safety or security reasons. These could include hazardous areas near dams, spillways, hydro-electric power stations, work areas, water intake structures, etc. No shoreline use permits will be issued in Prohibited Access Areas.
- (6) **Public Participation.** District commanders will ensure public participation to the maximum practicable extent in Shoreline Management Plan formulation, preparation and subsequent revisions. This may be accomplished by public meetings, group workshops, open houses or other public involvement techniques. When master plan updates and preparation of the Shoreline Management

Plans are concurrent, public participation may be combined and should consider all aspects of both plans, including shoreline allocation classifications. Public participation will begin during the initial formulation stage and must be broad-based to cover all aspects of public interest. The key to successful implementation is an early and continual public relations program. Projects with significant numbers of permits should consider developing computerized programs to facilitate exchange of information with permittees and to improve program efficiency. Special care will be taken to advise citizen and conservation organizations; Federal, state and local natural resource management agencies; Indian Tribes; the media; commercial concessionaires; congressional liaisons; adjacent landowners and other concerned entities during the formulation of Shoreline Management Plans and subsequent revisions. Notices shall be published prior to public meetings to assure maximum public awareness. Public notices shall be issued by the district commander allowing for a minimum of 30 days for receipt of written public comment in regard to the proposed Shoreline Management Plan or any major revision thereto.

- (7) **Periodic Review.** Shoreline Management Plans will be reviewed periodically, but no less often than every five years, by the district commander to determine the need for update. If sufficient controversy or demand exists, consideration should be given, consistent with other factors, to a process of reevaluation of the shoreline allocations and the plan. When changes to the Shoreline Management Plan are needed, the plan will be formally updated through the public participation process. Cumulative environmental impacts of permit actions and the possibility of preparing or revising project NEPA documentation will be considered. District commanders may make minor revisions to the Shoreline Management Plan when the revisions are consistent with policy and funds for a complete plan update are not available. The amount and type of public involvement needed for such revision is at the discretion of the district commander.
- (f) **Instruments for Shoreline Use.** Instruments used to authorize private shoreline use facilities, activities or development are as follows:
 - (1) **Shoreline Use Permits.**
 - (i) Shoreline Use Permits are issued and enforced in accordance with provisions of 36 CFR 327.19.
 - (ii) Shoreline Use Permits are required for private structures/activities of any kind (except boats) in waters of Civil Works projects whether or not such waters are deemed navigable and where such waters are under the primary jurisdiction of the Secretary of the Army and under the management of the Corps of Engineers.
 - (iii) Shoreline Use Permits are required for non-floating structures on waters deemed commercially non-navigable, when such waters are under management of the Corps of Engineers.
 - (iv) Shoreline Use Permits are also required for land vegetation modification activities which do not involve disruption to land form.
 - (v) Permits should be issued for a term of five years. To reduce administration costs, one year permits should be issued only when the location or nature of the activity requires annual reissuance.
 - (vi) Shoreline Use Permits for erosion control may be issued for the life or period of continual ownership of the structure by the permittee and his/her legal spouse.
 - (2) **Department of the Army Permits.** Dredging, construction of fixed structures, including fills and combination fixed-floating structures and the discharge of dredged or fill material in waters of the United States will be evaluated under authority of section 10, River and Harbor Act of 1899 (33 U.S.C. 403) and section 404 of the Clean Water Act (33 U.S.C. 1344). Permits will be issued where appropriate
 - (3) **Real Estate Instruments.** Commercial development activities and activities which involve grading, cuts, fills, or other changes in land form, or establishment of appropriate land-based support facilities required for private floating facilities, will continue to be covered by a lease, license or

other legal grant issued through the appropriate real estate element. Shoreline Management Plans should identify the types of activities that require real estate instruments and indicate the general process for obtaining same. Shoreline Use Permits are not required for facilities or activities covered by a real estate instrument.

- (g) **Transfer of Permits.** Shoreline Use Permits are non-transferable. They become null and void upon sale
- (h) **Existing Facilities Now Under Permit.** Implementation of a Shoreline Management Plan shall consider existing permitted facilities and prior written Corps commitments implicit in their issuance. Facilities or activities permitted under special provisions should be identified in a way that will set them apart from other facilities or activities.
- (1) Section 6 of Pub. L. 97-140 provides that no lawfully installed dock or appurtenant structures shall be required to be removed prior to December 31, 1989, from any Federal water resources reservoir or lake project administered by the Secretary of the Army, acting through the Chief of Engineers, on which it was located on December 29, 1981, if such property is maintained in usable condition, and does not occasion a threat to life or property.
- (2) In accordance with section 1134(d) of Pub. L. 99-662, any houseboat, boathouse, floating cabin or lawfully installed dock or appurtenant structures in place under a valid shoreline use permit as of November 17, 1986, cannot be forced to be removed from any Federal water resources project or lake administered by the Secretary of the Army on or after December 31, 1989, if it meets the three conditions below except where necessary for immediate use for public purposes or higher public use or for a navigation or flood control project.

 - (i) Such property is maintained in a usable and safe condition,
 - (ii) Such property does not occasion a threat to life or property, and
- (3) All such floating facilities and appurtenances will be formally recognized in an appropriate Shoreline Management Plan. New permits for these permitted facilities will be issued to new owners. If the holder of the permit fails to comply with the terms of the permit, it may be revoked and the holder required to remove the structure, in accordance with the terms of the permit as to
- (i) **Facility Maintenance.** Permitted facilities must be operated, used and maintained by the permittee in a safe, healthful condition at all times. If determined to be unsafe, the resource manager will establish together with the permittee a schedule, based on the seriousness of the safety deficiency, for correcting the deficiency or having it removed, at the permittee's expense. The applicable safety and health prescriptions in EM 385-1-1 should be used as a guide.
- (j) **Density of Development.** The density of private floating and fixed recreation facilities will be established in the Shoreline Management Plan for all portions of Limited Development areas consistent with ecological and aesthetic characteristics and prior written commitments. The facility density in Limited Development Areas should, if feasible, be determined prior to the development of adjacent private property. The density of facilities will not be more than 50 per cent of the Limited Development Area in which they are located. Density will be measured by determining the linear feet of shoreline as compared to the width of the facilities in the water plus associated moorage arrangements which restrict the full unobstructed use of that portion of the shoreline. When a Limited Development Area or a portion of a Limited Development area reaches maximum density, notice should be given to the public and facility owners in that area that no additional facilities will be allowed. In all cases, sufficient open area will be maintained for safe maneuvering of watercraft. Docks should not extend out from the shore more than one-third of the width of a cove at normal recreation or multipurpose pool. In those cases where current density of development exceeds the density level established in the Shoreline Management Plan, the density will be reduced to the prescribed level through attrition.
- (k) **Permit Fees.** Fees associated with the Shoreline Use Permits shall be paid prior to issuing the permit in accordance with the provisions of Sec. 327.30(c)(1). The fee schedule will be published separately.

Appendix A to Sec. 327.30--Guidelines for Granting Shoreline Use Permits

1. General

- a. Decisions regarding permits for private floating recreation facilities will consider the operating objectives and physical characteristics of each project. In developing Shoreline Management Plans, district commanders will give consideration to the effects of added private boat storage facilities on commercial concessions for that purpose. Consistent with established policies, new commercial concessions may be alternatives to additional limited development shoreline.
- b. Permits for individually or group owned shoreline use facilities may be granted only in Limited Development Areas when the sites are not near commercial marine services and such use will not despoil the shoreline nor inhibit public use or enjoyment thereof. The installation and use of such facilities will not be in conflict with the preservation of the natural characteristics of the shoreline nor will they result in significant environmental damage. Charges will be made for Shoreline Use Permits in accordance with the separately published fee schedule.
- c. Permits may be granted within Limited Development Areas for ski jumps, floats, boat moorage facilities, duck blinds, and other private floating recreation facilities when they will not create a safety hazard and inhibit public use or enjoyment of project waters or shoreline. A Corps permit is not required for temporary ice fishing shelters or duck blinds when they are regulated by a state program. When the facility or activity is authorized by a shoreline use permit, a separate real estate instrument is generally not required.
- d. Group owned boat mooring facilities may be permitted in Limited Development Areas where practicable (e.g. where physically feasible in terms of access, water depths, wind protection, etc.).

2. Applications for Shoreline Use Permits

- a. Applications for private Shoreline Use Permits will be reviewed with full consideration of the policies set forth in this and referenced regulations, and the Shoreline Management Plan. Fees associated with the Shoreline Use Permit shall be paid prior to issuing the permit. Plans and specifications of the proposed facility shall be submitted and approved prior to the start of construction. Submissions should include engineering details, structural design, anchorage method, and construction materials; the type, size, location and ownership of the facility; expected duration of use; and an indication of willingness to abide by the applicable regulations and terms and conditions of the permit. Permit applications shall also identify and locate any land-based support facilities and any specific safety considerations.
- b. Permits will be issued by the district commander or his/her authorized representative on ENG Form 4264-R (Application for Shoreline Use Permit) (appendix B). Computer generated forms may be substituted for ENG Form 4264-R provided all information is included. The computer generated form will be designated, ``ENG Form 4264-R-E, Oct 87 (Electronic generation approved by USACE, Oct 87)''.
- c. The following are guides to issuance of Shoreline Use Permits:
 - (1) Use of boat mooring facilities, including piers and boat (shelters) houses, will be limited to vessel or watercraft mooring and storage of gear essential to vessel or watercraft operation.
 - (2) Private floating recreation facilities, including boat mooring facilities shall not be constructed or used for human habitation or in a manner which gives the appearance of converting Federal public property on which the facility is located to private, exclusive use. New docks with enclosed sides (i.e. boathouses) are prohibited.
 - (3) No private floating facility will exceed the minimum size required to moor the owner's boat or boats plus the minimum size required for an enclosed storage locker of oars, life preservers and other items essential to watercraft operation. Specific size limitations may be established in the project Shoreline Management Plan.

- (4) All private floating recreation facilities including boat mooring facilities will be constructed in accordance with plans and specifications, approved by the resource manager, or a written certification from a licensed engineer, stating the facility is structurally safe will accompany the initial submission of the plans and specifications.
- (5) Procedures regarding permits for individual facilities shall also apply to permits for non-commercial group mooring facilities.
- (6) Facilities attached to the shore shall be securely anchored by means of moorings which do not obstruct the free use of the shoreline, nor damage vegetation or other natural features. Anchoring to vegetation is prohibited.
- (7) Electrical service and equipment leading to or on private mooring facilities must not pose a safety hazard nor conflict with other recreational use. Electrical installations must be weatherproof and meet all current applicable electrical codes and regulations. The facility must be equipped with quick disconnect fittings mounted above the flood pool elevation. All electrical installations must conform to the National Electric Code and all state, and local codes and regulations. In those states where electricians are licensed, registered, or otherwise certified, a copy of the electrical certification must be provided to the resource manager before a Shoreline Use Permit can be issued or renewed. The resource manager will require immediate removal or disconnection of any electrical service or equipment that is not certified (if appropriate), does not meet code, or is not safely maintained. All new electrical lines will be installed underground. This will require a separate real estate instrument for the service right-of-way. Existing overhead lines will be allowed, as long as they meet all applicable electrical codes, regulations and above guidelines, to include compatibility and safety related to fluctuating water levels.
- (8) Private floating recreation facilities will not be placed so as to interfere with any authorized project purposes, including navigation, or create a safety or health hazard.
- (9) The district commander or his/her authorized representative may place special conditions on the permit when deemed necessary. Requests for waivers of shoreline management plan permit conditions based on health conditions will be reviewed on a case by case basis by the Operations Manager. Efforts will be made to reduce onerous requirements when a limiting health condition is obvious or when an applicant provides a doctor's certification of need for conditions which are not obvious.
- (10) Vegetation modification, including but not limited to, cutting, pruning, chemical manipulation, removal or seeding by private individuals is allowed only in those areas designated as Limited Development Areas or Protected Shoreline Areas. An existing (as of July 1, 1987) vegetation modification permit, within a shoreline allocation which normally would not allow vegetation modification, should be grandfathered. Permittees will not create the appearance of private ownership of public lands.
- (11) The term of a permit for vegetation modification will be for five years. Where possible, such permits will be consolidated with other shoreline management permits into a single permit. The district commander is authorized to issue vegetation modification permits of less than five years for one-time requests or to aid in the consolidation of shoreline management permits.
- (12) When issued a permit for vegetative modification, the permittee will delineate the government property line, as surveyed and marked by the government, in a clear but unobtrusive manner approved by the district commander and in accordance with the project Shoreline Management Plan and the conditions of the permit. Other adjoining owners may also delineate the common boundary subject to these same conditions. This delineation may include, but is not limited to, boundary plantings and fencing. The delineation will be accomplished at no cost to the government.
- (13) No permit will be issued for vegetation modification in Protected Shoreline Areas until the

environmental impacts of the proposed modification are assessed by the resource manager and it has been determined that no significant adverse impacts will result. The effects of the proposed modification on water quality will also be considered in making this determination.

(14) The original of the completed permit application is to be retained by the permittee. A duplicate will be retained in the resource manager's office.

3. Permit Revocation

Permits may be revoked by the district commander when it is determined that the public interest requires such revocation or when the permittee fails to comply with terms and conditions of the permit, the Shoreline Management Plan, or of this regulation. Permits for duck blinds and ice fishing shelters will be issued to cover a period not to exceed 30 days prior to and 30 days after the season.

4. Removal of Facilities

Facilities not removed when specified in the permit or when requested after termination or revocation of the permit will be treated as unauthorized structures pursuant to 36 CFR 327.20.

5. Posting of Permit Number

Each district will procure 5" x 8" or larger printed permit tags of light metal or plastic for posting. The permit display tag shall be posted on the facility and/or on the land area covered by the permit, so that it can be visually checked, with ease in accordance with instructions provided by the resource manager. Facilities or activities permitted under special provisions should be identified in a way that will set apart from other facilities or activities.

Appendix B to Sec. 327.30--Application for Shoreline Use Permit

[Reserved]

Appendix C to Sec. 327.30--Shoreline Use Permit Conditions

1. This permit is granted solely to the applicant for the purpose described on the attached permit.
2. The permittee agrees to and does hereby release and agree to save and hold the Government harmless from any and all causes of action, suits at law or equity, or claims or demands or from any liability of any nature whatsoever for or on account of any damages to persons or property, including a permitted facility, growing out of the ownership, construction, operation or maintenance by the permittee of the permitted facilities and/or activities.
3. Ownership, construction, operation, use and maintenance of a permitted facility are subject to the Government's navigation servitude.
4. No attempt shall be made by the permittee to forbid the full and free use by the public of all public waters and/or lands at or adjacent to the permitted facility or to unreasonably interfere with any authorized project purposes, including navigation in connection with the ownership, construction, operation or maintenance of a permitted facility and/or activity.
5. The permittee agrees that if subsequent operations by the Government require an alteration in the location of a permitted facility and/or activity or if in the opinion of the district commander a permitted facility and/or activity shall cause unreasonable obstruction to navigation or that the public interest so requires, the permittee shall be required, upon written notice from the district commander to remove, alter, or relocate the permitted facility, without expense to the Government.
6. The Government shall in no case be liable for any damage or injury to a permitted facility which may be caused by or result from subsequent operations undertaken by the Government for the improvement of navigation or for other lawful purposes, and no claims or right to compensation shall accrue from any such damage. This includes any damage that may occur to private property if a facility is removed for noncompliance with the conditions of the permit.

7. Ownership, construction, operation, use and maintenance of a permitted facility and/or activity are subject to all applicable Federal, state and local laws and regulations. Failure to abide by these applicable laws and regulations may be cause for revocation of the permit.
8. This permit does not convey any property rights either in real estate or material; and does not authorize any injury to private property or invasion of private rights or any infringement of Federal, state or local laws or regulations, nor does it obviate the necessity of obtaining state or local assent required by law for the construction, operation, use or maintenance of a permitted facility and/or activity.
9. The permittee agrees to construct the facility within the time limit agreed to on the permit issuance date. The permit shall become null and void if construction is not completed within that period. Further, the permittee agrees to operate and maintain any permitted facility and/or activity in a manner so as to provide safety, minimize any adverse impact on fish and wildlife habitat, natural, environmental, or cultural resources values and in a manner so as to minimize the degradation of water quality.
10. The permittee shall remove a permitted facility within **30** days, at his/her expense, and restore the waterway and lands to a condition accepted by the resource manager upon termination or revocation of this permit or if the permittee ceases to use, operate or maintain a permitted facility and/or activity. If the permittee fails to comply to the satisfaction of the resource manager, the district commander may remove the facility by contract or otherwise and the permittee agrees to pay all costs incurred thereof.
11. The use of a permitted boat dock facility shall be limited to the mooring of the permittee's vessel or watercraft and the storage, in enclosed locker facilities, of his/her gear essential to the operation of such vessel or watercraft.
12. Neither a permitted facility nor any houseboat, cabin cruiser, or other vessel moored thereto shall be used as a place of habitation or as a full or part-time residence or in any manner which gives the appearance of converting the public property, on which the facility is located, to private use.
13. Facilities granted under this permit will not be leased, rented, sub-let or provided to others by any means of engaging in commercial activity(s) by the permittee or his/her agent for monetary gain. This does not preclude the permittee from selling total ownership to the facility.
14. Floats and the flotation material for all docks and boat mooring buoys shall be fabricated of materials manufactured for marine use. The float and its flotation material shall be 100% warranted for a minimum of 8 years against sinking, becoming waterlogged, cracking, peeling, fragmenting, or losing beads. All floats shall resist puncture and penetration and shall not be subject to damage by animals under normal conditions for the area. All floats and the flotation material used in them shall be fire resistant. Any float which is within 40 feet of a line carrying fuel shall be 100% impervious to water and fuel. The use of new or recycled plastic or metal drums or non-compartmentalized air containers for encasement or floats is prohibited. Existing floats are authorized until it or its flotation material is no longer serviceable, at which time it shall be replaced with a float that meets the conditions listed above. For any floats installed after the effective date of this specification, repair or replacement shall be required when it or its flotation material no longer performs its designated function or it fails to meet the specifications for which it was originally warranted.
15. Permitted facilities and activities are subject to periodic inspection by authorized Corps representatives. The resource manager will notify the permittee of any deficiencies and together establish a schedule for their correction. No deviation or changes from approved plans will be allowed without prior written approval of the resource manager.
16. Floating facilities shall be securely attached to the shore in accordance with the approved plans by means of moorings which do not obstruct general public use of the shoreline or adversely affect the natural terrain or vegetation. Anchoring to vegetation is prohibited.
17. The permit display tag shall be posted on the permitted facility and/or on the land areas covered

by the permit so that it can be visually checked with ease in accordance with instructions provided by the resource manager.

18. No vegetation other than that prescribed in the permit will be damaged, destroyed or removed. No vegetation of any kind will be planted, other than that specifically prescribed in the permit.
19. No change in land form such as grading, excavation or filling is authorized by this permit.
20. This permit is non-transferable. Upon the sale or other transfer of the permitted facility or the death
21. By 30 days written notice, mailed to the permittee by certified letter, the district commander may revoke this permit whenever the public interest necessitates such revocation or when the permittee fails to comply with any permit condition or term. The revocation notice shall specify the reasons for such action. If the permittee requests a hearing in writing to the district commander through the resource manager within the 30-day period, the district commander shall grant such hearing at the earliest opportunity. In no event shall the hearing date be more than 60 days from the date of the hearing request. Following the hearing, a written decision will be rendered and a copy mailed to the permittee by certified letter.
22. Notwithstanding the conditions cited in condition 21 above, if in the opinion of the district commander, emergency circumstances dictate otherwise, the district commander may summarily revoke the permit.
23. When vegetation modification on these lands is accomplished by chemical means, the program will be in accordance with appropriate Federal, state and local laws, rules and regulations.
24. The resource manager or his/her authorized representative shall be allowed to cross the permittee's property, as necessary to inspect facilities and/or activities under permit.
25. When vegetation modification is allowed, the permittee will delineate the government property line in a clear, but unobtrusive manner approved by the resource manager and in accordance with the project Shoreline Management Plan.
26. If the ownership of a permitted facility is sold or transferred, the permittee or new owner will notify the Resource Manager of the action prior to finalization. The new owner must apply for a Shoreline Use Permit within 14 days or remove the facility and restore the use area within 30 days from the date of ownership transfer.
27. If permitted facilities are removed for storage or extensive maintenance, the resource manager may require all portions of the facility be removed from public property.

Appendix D to Sec. 327.30--Permit [Reserved]

[55 FR 30697, July 27, 1990, as amended at 57 FR 21895, May 26, 1992; 57 FR 29220, July 1, 1992; 63 FR 35828, July 1, 1998]

Effective Date Note: The amendment to Sec. 327.30 revising the last sentence of paragraph (k), published at 56 FR 29587, June 28, 1991, was deferred indefinitely. See 56 FR 49706, Oct. 1, 1991. The administrative charges contained in Sec. 327.30, Shoreline Management on Civil Works Projects, published in the July 1, 1991 edition of the Code of Federal Regulations will remain in effect. Any future decisions affecting this regulation will be published in the Federal Register at a later date by the Corps of Engineers, Department of the Army. For the convenience of the user, the rule published on June 28, 1991, at FR page 29587, is set forth as follows:

Sec. 327.30 Shoreline Management on Civil Works Projects.

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(k) * * * The Fee Schedule is published in Sec. 327.31.